

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA, <u>ex rel.</u> ,	*	
JOSEPH P. DOYLE, ADMINISTRATOR	*	
of the FAIR BUSINESS PRACTICES ACT	*	CIVIL ACTION
FILE	*	
	*	NO. _____
Plaintiff,	*	
V.	*	
	*	
CARY V. QUATTROCCHI, BENNY W.	*	
BUTLER, USSO, LLC and	*	
ATLANTA SC, INC.	*	
	*	
Defendants.	*	

COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL
PENALTIES, AND RESTITUTION

COMES NOW Plaintiff State of Georgia through Joseph P. Doyle, Administrator of the Georgia Fair Business Practices Act of 1975, ("Administrator"), by and through Thurbert E. Baker, Attorney General for the State of Georgia, and files this Complaint as follows:

JURISDICTION AND VENUE

1.

This civil action is brought pursuant to the Georgia Fair Business Practices Act of 1975 ("FBPA"), O.C.G.A. § 10-1-397(a)(2), seeking injunctive relief, monetary relief by way of civil penalties, restitution to persons adversely affected by the Defendant's actions, and costs of this matter, including reasonable attorney fees.

2.

The court has jurisdiction over this action pursuant to Georgia Constitution Art. 6, Sec. 4, Par. 1, O.C.G.A. § 15-6-8, and O.C.G.A. § 10-1-397(a)(2).

PARTIES

3.

Plaintiff Joseph P. Doyle is the Administrator of Georgia's Fair Business Practices Act of 1975 ("FBPA"), O.C.G.A. § 10-1-390 *et seq.*, which he enforces through the Governor's Office of Consumer Affairs ("OCA"). The FBPA is intended to protect consumers and legitimate business enterprises from "unfair or deceptive practices in the conduct of any trade or commerce in part or wholly in the state." O.C.G.A. § 10-1-391(a).

4.

Defendant Cary V. Quattrocchi owns and operates USSO, LLC and Atlanta SC, Inc, which are for-profit entities located in Georgia. Defendant Quattrocchi may be served at 100 Hopewell Grove Drive, Alpharetta, Fulton County, Georgia 30004 and is subject to the jurisdiction and venue of this Court.

5.

Defendant Benny W. Butler owns and operates USSO, LLC and Atlanta SC, Inc, which are for-profit entities located

in Georgia. Defendant Butler may be served at 86 Country Road, Rockmart, Polk County, Georgia 30153 and is subject to the jurisdiction and venue of this Court pursuant to O.C.G.A. §§ 9-10-30 and 9-10-31(b).

6.

Defendant USSO, LLC is a for-profit limited liability company owned and operated by Defendants Quattrocchi and Butler and is located in Georgia. Defendant USSO may be served through Defendant Quattrocchi, 100 Hopewell Grove Drive, Alpharetta, Fulton County, Georgia 30004. Defendant USSO, LLC is subject to the jurisdiction and venue of this Court pursuant to O.C.G.A. §§ 9-10-30 and 9-10-31(b).

7.

Defendant Atlanta SC, Inc. is a for-profit corporation owned and operated by Defendants Quattrocchi and Butler and is located in Georgia. Defendant Atlanta SC, Inc. may be served through its officer and registered agent, Cary V. Quattrocchi, 100 Hopewell Grove Drive, Alpharetta, Fulton County, Georgia 30004. Defendant Atlanta SC, Inc. is subject to the jurisdiction and venue of this Court.

FACTUAL ALLEGATIONS

8.

Defendants maintain and operate more than nine hundred Web sites including, but not limited to, www.1800SkyRide.com, www.ThrillPlanet.com, www.SoaringSports.com, and www.ascskydiving.com, through which they advertise "booking" services." Defendants' booking agents and reservationists represent to the public that they book appointments and sell gift certificates for extreme outdoor adventures including sky diving, hot air ballooning, race car driving, river rafting, and assorted other sporting adventures.

9.

OCA received sixty-two consumer complaints regarding Defendants. The majority of the complaints against Defendants involve: (a) Defendants failing to provide services after receiving full payment from consumers, (b) Defendants failing to provide gift certificates after receiving full payment from consumers, or (c) consumers receiving purchased gift certificates but being unable to redeem them for various reasons during the two-year redemption period.

10.

Specifically, Defendants received payment and made reservations for sky diving, ballooning and other sporting services, without knowing whether the appointed times or sky diving centers that consumers requested - and believed they were being booked for - were open or available. Additionally, Defendants promised consumers certain appointment times, locations, or dates without fulfillment, while other consumers would arrive at the diving facility only to discover that the facility had not received booking requests from Defendants, payment for those services on behalf of the consumer, or that the location where the appointment was booked was not convenient or nearby as represented.

11.

When selling gift certificates, Defendants told consumers to expect arrival of the gift certificates via U.S. mail within seven to ten days of the purchase. However, many consumers never received the gift certificates, and, despite notifying Defendants on multiple occasions of this failure, the consumers never received a refund of the purchase price from Defendants.

12.

Prior to the purchase of a gift certificate, consumers inquired into the locations Defendants' gift certificates were redeemable. Defendants' representatives falsely assured the consumers that their gift certificates were redeemable at numerous locations convenient to the consumer. Additionally, the Web sites maintained and operated by Defendants misrepresented their affiliation with certain companies and the number of locations where Defendants' customers could redeem their gift certificates. As a result, consumers were unable to timely redeem their gift certificates because they were unable to find convenient or nearby locations as represented.

13.

When consumers requested refunds for the unused services, undelivered gift certificates, or non-redeemable gift certificates, the Defendants fabricated various reasons for denying the consumers refund requests, including that they had not paid "refund fees," inclement weather policies, unexpected facility closings, the unavailability of dive instructors, the lack of responsibility for the practices or operations of independently-owned diving centers, and that Defendants were not responsible for failed mail delivery.

14.

Defendants falsely represented to consumers that reservationists were available twenty-four hours a day and that reservationists would contact consumers with appointment or booking details within hours of purchasing.

15.

Defendants falsely represented to consumers that their facilities were certified, affiliated, or approved by the United States Parachute Association ("USPA") and that some of their instructors or employees were also certified by the USPA.

16.

After reviewing the consumer complaints and conducting a thorough investigation, the Administrator served upon the Defendants a "Notice of Contemplated Legal Action," as required by O.C.G.A. § 10-1-397(b). A true and accurate copy of the Notice of Contemplated Legal Action is attached hereto as Exhibit "A." The Administrator's efforts to resolve the allegations against Defendants by having them enter into an assurance of voluntary compliance have not been successful.

VIOLATIONS OF THE FAIR BUSINESS PRACTICES ACT

17.

Plaintiff incorporates by reference herein paragraphs 1-16 above.

18.

Defendants conducted consumer transactions and consumer acts or practices in trade or commerce in part or wholly in the State of Georgia.

19.

By claiming to have a network of more than "600 locations nationwide," when there was no nationwide network as advertised, Defendants made representations about services offered by Defendants that caused or were likely to cause actual confusion or misunderstanding as to the sponsorship, approval, affiliation, or benefits of said services, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b)(2), 10-1-393(b)(3), 10-1-393(b)(5), and 10-1-393(b)(9).

20.

By stating that their gift certificates were redeemable and accepted at more than "600 locations" nationwide, when they were not redeemable as advertised, Defendants made representations about services offered by Defendants that caused or were likely to cause actual

confusion or misunderstanding as to the sponsorship, approval, affiliation, or benefits of said services, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b)(2), 10-1-393(b)(3), 10-1-393(b)(5), and 10-1-393(b)(9).

21.

By advertising that their gift certificates had a "2 year expiration" period when this period was not recognized as advertised, Defendants made representations that services offered by Defendants had characteristics or benefits that they did not have, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b)(5), and 10-1-393(b)(9).

22.

By booking adventure trips with companies where there was no affiliation as advertised, Defendants made representations about services offered by Defendants that caused or were likely to cause actual confusion or misunderstanding as to the sponsorship, approval, affiliation, connection, or association with another, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b)(2), 10-1-393(b)(3), 10-1-393(b)(5), and 10-1-393(b)(9).

23.

By stating that adventure trips were or would be available in consumers' local areas, when local providers were not always available as advertised, Defendants made

representations about services offered by Defendants that caused or were likely to cause actual confusion or misunderstanding as to the source, characteristics or benefits of said services that they did not have, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b) (2), 10-1-393(b) (5), and 10-1-393(b) (9) .

24.

By stating that reservationists were available "24 hours a day", when they were not available as advertised, Defendants made representations that services offered by Defendants had characteristics or benefits that they did not have, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b) (5), and 10-1-393(b) (9) .

25.

By stating that representatives would contact consumers with appointment and/or booking details within hours of purchasing, when representatives did not contact consumers within the timeframe as advertised, Defendants made representations that services offered by Defendants had characteristics or benefits that they did not have, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b) (5), and 10-1-393(b) (9) .

26.

By claiming to offer refunds under limited circumstances and then failing to honor those refunds as advertised, Defendants made representations that services offered by Defendants had characteristics or benefits that they did not have, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b) (5), and 10-1-393(b) (9) .

27.

By waiting until after consumers purchased adventure trips to fabricate excuses for why consumers could not be given appointments as advertised, Defendants advertised services with intent not to supply reasonably expectable demand, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b) (9), and 10-1-393(b) (10) .

28.

By advertising that some of its instructors or employees were certified by the United States Parachute Association, when they were not as advertised, Defendants made representations that a person had sponsorship, approval, affiliation, or connection that he or she did not have, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b) (5), and 10-1-393(b) (9) .

29.

By advertising that their facilities were certified, affiliated, or approved by the United States Parachute Association, when they were not, Defendants made representations about services offered by Defendants that caused or were likely to cause actual confusion or misunderstanding as to the sponsorship, approval, affiliation, or benefits of said services, in violation of O.C.G.A. §§ 10-1-393(a), 10-1-393(b)(2), 10-1-393(b)(3), 10-1-393(b)(5), and 10-1-393(b)(9).

30.

By disseminating solicitations that expressly or by implication made deceptive claims about the nature and quality of Defendants' services through Web sites such as www.1800SkyRide.com, www.ThrillPlanet.com, www.AdventureSkydiving.com, www.SoaringSports.com, and www.ascskydiving.com, Defendants engaged in activities involving or using a computer or computer network to employ a device, scheme, or artifice to defraud a person, organization, or entity, in violation of O.C.G.A. §§ 10-1-393(a) and 10-1-393.5(b)(1).

31.

By advertising on websites such as www.1800SkyRide.com, www.ThrillPlanet.com,

www.AdventureSkydiving.com, www.SoaringSports.com, and
www.ascskydiving.com, Defendants engaged in activities
involving or using a computer or computer network to engage
in an act, practice, or course of business that operated or
would operate as a fraud or deceit upon a person,
organization, or entity, in violation of O.C.G.A. §§ 10-1-
393(a) and 10-1-393.5(b)(2).

WHEREFORE, Plaintiff prays that the Court enter the
following relief:

(a) an injunction permanently restraining Defendants
from violating the FBPA;

(b) an award of civil penalties up to a maximum of
\$5,000.00 per violation of the FBPA;

(c) restitution OF \$ 21,397.05 to persons adversely
affected by Defendants' actions;

(d) an award of court costs and attorney's fees; and

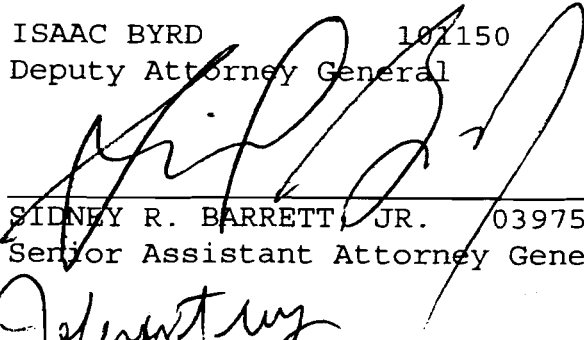
(e) any other and further relief as the Court deems
just and proper.

This 10th day of May 2007.

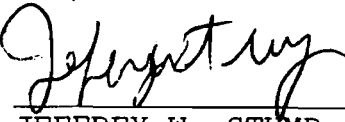
Respectfully submitted,

THURBERT E. BAKER 033887
Attorney General

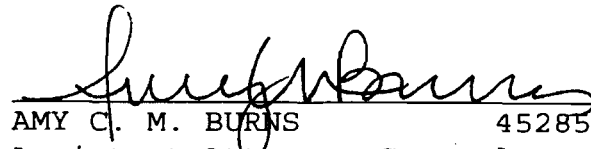
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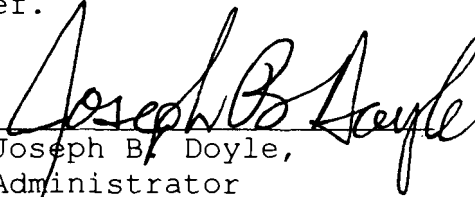
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STATE OF GEORGIA
COUNTY OF FULTON

VERIFICATION

Personally appeared before the undersigned attesting officer, Joseph P. Doyle, Administrator of the Fair Business Practices Act, who after being first duly sworn, deposes and states on oath that the facts set forth in the within and foregoing Complaint are true and correct to the best of his knowledge and belief.


Joseph B. Doyle,
Administrator

Sworn to and subscribed
Before me this 10 day
Of May, 2007


Notary Public

My commission expires:

**Notary Public, Cobb County, Georgia
My Commission Expires March 19, 2011**